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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/662,883	09/16/2003	Murat O. Balaban	T2315-907879US02	T2315-907879US02 1143	
181 7	590 08/13/2004		EXAMINER		
MILES & ST	OCKBRIDGE PC LE DRIVE		YEUNG, GEOR	GE CHAN PUI	
SUITE 500			ART UNIT	PAPER NUMBER	
MCLEAN, VA	A 22102-3833		1761		

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No. Applicant(s) App				(1				
Examiner - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Exhaustees of time rangy is available under the previolence of 37 CPR 1.136(a). In on overt, however, may a reply be timely filled - If NO period for reply specified above, the molernum statistory period will apply and will agole SIX (8) MOSTRTS from the mailing date of this communication. - If NO period for reply is specified above, the molernum statistory period will apply and will agole SIX (8) MOSTRTS from the mailing date of this communication. - If NO period for reply is specified above, the molernum statistory period will apply and will agole SIX (8) MOSTRTS from the mailing date of this communication. - If NO period for reply is specified above, the molernum statistory period will apply and will ap		Application No.	Applicant(s)					
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Application/Control Number: 10/662,883

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DETAILED ACTION

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer <u>cannot</u> overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1-47 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-47 of prior U.S. Patent No. 6,723,365. This is a double patenting rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Yeung whose telephone number is (571) 272-1412. The examiner can normally be reached on Monday-Friday from 10:30 AM to 7:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton C. Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

G. Yeung/af August 10, 2004

> GEORGE C. YEUNG PRIMARY EXAMINER